

REMARKS

Status of the Claims & Formalities

Status of the Claims

Claims 1-8 are all the claims pending in the application. By this Amendment, Applicants are amending claims 1 and 2 for matters of form and are not limiting the scope of the claims.

Priority Documents

Applicants thank the Examiner for acknowledging receipt of the certified copies of the foreign priority document.

Information Disclosure Statement

Applicants thank the Examiner for considering and initialing all of the references listed on the PTO/SB/08 form submitted with the Information Disclosure Statement filed on June 16, 2006.

Objections to the Drawings

The Examiner objected to the drawings as allegedly failing to comply with 37 CFR 1.84(p)(4) for the reasons listed on page 2 of the office action. Applicant is submitting a new Figure 4 to address the Examiner's objection.

Objections to the Specification

The Examiner objected to the specification for the reasons noted on page 2 of the office action. Applicant is amending the specification as noted above to address the Examiner's objections.

Objections to the Claims

The Examiner objected to the claims because two identical copies of claim 2 were submitted with the preliminary amendment filed on June 16, 2006. Applicants are hereby submitting a new set of claims to address the Examiner's objection.

Art Rejections

1. *Claims 1-8 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Garcia et al. (US Pub. No. 2003/0109068; hereinafter "Garcia I").*
2. *Claims 1-8 are rejected under 35 U.S.C. § 103 as allegedly being obvious over Garcia I.*

Claim Rejections - 35 U.S.C. § 102 & 35 U.S.C. § 103

In rejecting claims 1-8, the grounds of rejection state:

Claims 1-8 are rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Garcia et al. 2003/0109068. The embodiment of figure 4 of Garcia discloses a fluid dispenser member 1 with a body 10, a fastening means 17, a gasket 18 and an ID unit 3 with the claimed gap immediately above and to the left of 3 in figure 4. Paragraph 30 further discloses that the unit 3 can also be located either in or on the side wall of 10 in lieu of the location buried in the gasket 18 as shown in figure 4. One of ordinary skill in the art would have either considered paragraph 30 as disclosing that the unit 3 could be placed within the claimed gap on the side wall of 10, or would have considered this location to be obvious in view of the disclosure in paragraph 30 that unit 3 could be located on the side wall of 10 and figure 4 clearly shows an available spot on the side wall of 10 immediately adjacent he shown location of 3 in figure 4 within the claimed gap that would provide a convenient space for unit 3 to be located within.

(Office Action at page 3.)

35 U.S.C. § 102 Rejections

Regarding claim 1, Garcia I does not disclose at least “said ID unit (3) is housed in a gap, said gap (19) forming an annular housing defined by the body (10), by a portion (170) of the fastener means (17), and by the neck gasket (18).” Rather, the embodiment of Garcia I relied upon by the Examiner as anticipating claim 1 shows an ID unit 3 that is housed in a recess formed in the neck join 18 and secured by the fastener means 17. (*See* Garcia I, ¶ 0029, Figure 4.) Indeed, as mentioned by the Examiner, “the unit 3 [is] buried in the gasket 18 as shown in figure 4.” (Office Action at page 3.)

Moreover, nothing in the written disclosure provides that the ID unit is housed in a gap defined by a body, a portion of a fastener means, and a neck gasket. The Examiner alleges that paragraph 30 of Garcia I discloses an ID unit located on the body and that “[o]ne of ordinary skill in the art would have considered paragraph 30 as disclosing that the unit 3 could be placed within the claimed gap on the side wall of 10” (Office Action at page 3.) Paragraph 30 of Garcia I, however, only mentions that “one can place the ID unit in the body 10 or in the constitutive side wall of the body by encapsulating or embedding method.” (Garcia I, ¶ 0030.) As such, paragraph 30 of Garcia I does not disclose locating the ID unit on the side wall, but rather discloses locating the ID unit in the side wall. A person of ordinary skill in the art would know that encapsulating or embedding an ID unit in a side wall is not the same as placing the ID unit in a gap formed by the side wall. As such, Garcia I does not disclose all of the features of independent claim 1.

Regarding claims 2-8, these claims are allowable at least by virtue of their dependency from independent claim 1.

35 U.S.C. § 103 Rejections

Nor does Garcia I render the claimed features of independent claim 1 obvious. The Examiner states that “[o]ne of ordinary skill in the art . . . would have considered this location to be obvious in view of the disclosure in paragraph 30 that unit 3 could be located on the side wall of 10 and figure 4 clearly shows an available spot on the side wall of 10 immediately adjacent the shown location of 3 in figure 4 within the claimed gap that would provide a convenient space for unit 3 to be located within.” Again, as noted above, paragraph 30 does not disclose that an ID unit is located on the side wall of the body 10 in figure 4 of Garcia I. Rather, paragraph 30 discloses that the ID unit is embedded in the side wall of the body 10. Nothing in Garcia I would lead one of ordinary skill in the art to attach the ID unit on the side wall of the body 10. As such, claim 1 is not obvious in view of Garcia I.

Regarding claims 2-8, these claims are allowable at least by virtue of their dependency from independent claim 1.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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23373
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Date: April 21, 2009